

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Scott Hutchison Enterprises, Inc., et al. : CASE NO: C-1-01-776
: :
Plaintiffs : Judge Weber
: :
vs. : :
: :
Rhodes, Inc., et. al. : :
: :
Defendants : :

**JOINT SUPPLEMENTAL STATUS REPORT ON PENDING MOTIONS AND
REQUEST FOR MODIFICATION OF SCHEDULING ORDER OF 9/13/05**

Come now the Plaintiffs, and Cross Claimant Boggs, parties to the within litigation, and hereby submit their JOINT SUPPLEMENTAL STATUS REPORT, AND REQUEST FOR MODIFICATION OF SCHEDULING ORDER OF 9-13-05 as follows:

JOINT STATUS REPORT:

In compliance with the Court's SCHEDULING ORDER OF 9-13-05, PLAINTIFFS AND CROSS CLAIMANT H.T. BOGGS separately filed dispositive motions and supporting documents prior to the February 27, 2006 deadline set forth therein to wit:

- a) Plaintiffs' Motion for Summary Judgment against Defendants Rhodes, Zimmer and Geisler , and Memorandum In Support were filed February 10, 2006;

- b) Cross Claimant Boggs' Motion for Summary Judgment against Defendants Rhodes, Zimmer and Geisler , and Memorandum In Support were filed February 10, 2006;
- c) Proposed Findings of Fact and Conclusions of Law were Jointly Submitted by Plaintiffs and Cross Claimant February 13, 2006;
- d) Affidavits and additional matter in support of the Motions and Proposed Findings were filed prior to February 27, 2006;

No response or opposition to these motions, nor any Counter Statement of Findings has been filed, although required to be served and filed within 20 days after filing of the above described Motions and Proposed Findings of Fact and Conclusions of Law.

Plaintiffs and Cross Claimant H.T.Boggs believe that the pending motions may be dispositive of all issues remaining in the case, and may therefore obviate the need for a trial. However, the Court's SCHEDULING ORDER OF 9-13-05, still also provides that *Counsel shall file their Joint Final Pretrial Order by May 5, 2006, and that this case shall proceed to trial in the June 2006 trial term.*

Therefore it is necessary for counsel to seek modification of that aspect of the Court's SCHEDULING ORDER OF 9-13-05.

REQUEST FOR MODIFICATION OF SCHEDULING ORDER OF 9/13/05:

Because the anticipated rulings on the pending Motions for Summary Judgment are expected to significantly influence the content of the Final Pretrial Order, or eliminate

the need for it entirely, it is respectfully requested that the Court's SCHEDULING ORDER OF 9-13-05 be modified to state that paragraph (7) of that ORDER provide:

“7) The requirement that Counsel file their Joint Final Pretrial Order by May 5, 2006 and that the case proceed to trial in the June 2006 trial term shall be held in abeyance pending the Courts rulings and further orders with respect to the pending Motions for Summary Judgment and the further scheduling requirements of this case. “

Respectively submitted,

/S/ William P. Schroeder

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: E. David Marshall at edavidm@iglou.com; and Thomas Robert Schuck at schuck@taftlaw.com and **I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:**

Kevin J. Waldo, 413 Center Street, Ironton, OH 45638-1505;

/S/ William P. Schroeder
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